

DELTA CITY MUNICIPAL CODE (1981 EDITION)

CURRENT THROUGH ORDINANCE 16-273 ADOPTED FEBRUARY 2, 2017



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TITLE 1-000.

GENERAL PROVISIONS

1-001. NAME OF CODE.

The ordinances contained in this code and all ordinances of a general nature hereafter adopted and inserted herein and all amendments, additions and changes thereto shall be part of this code and shall be known and cited as the "Revised Ordinances of Delta City (1981 Edition)."

1-002. REPEAL OF CONFLICTING ORDINANCES.

So far as the provisions of these Revised Ordinances are the same as those of previously existing ordinances, they shall be construed as continuations thereof. All ordinances and resolutions of this municipality heretofore in force, except such as are of a private, local or temporary nature including franchises, grants, dedications, bond issues, elections and special levies for local assessments, hereby are repealed except as otherwise provided in subsection B of this section.

1-003. RATIFICATION OF ORDINANCES NOT REPEALED.

A. Those ordinances of this municipality which are of a general nature which are not repealed and which the City Recorder is hereby authorized and directed to insert in the appropriate place in this code and which shall be deemed part of this code are:

1. Delta City Zoning Ordinance (Ordinance 81-26).
2. Delta City Subdivision Ordinance (Ordinance 80-05).
3. Utah Traffic Code.
4. Mobile Home, Mobile Home Park and Recreational Vehicle Ordinance.

B. The fees or charges established by the ordinances repealed by this code or revised ordinances shall remain in effect until subsequently changed by ordinance or resolution, except that the fees and charges established by this code of Revised Ordinances shall prevail in the event of a conflict.

1-004. EFFECT OF REPEALING ORDINANCES.

The repeal of the ordinances as provided in Section 1-002, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

1-005. EFFECTIVE DATE.

These Revised Ordinances shall become effective January 1, 1982.

1-006. DEFINITION AND RULES OF CONSTRUCTION.

In the construction of the ordinances of this municipality, the following rules and definitions shall be observed and applied unless such construction would be inconsistent with the manifest intent of these ordinances:

A. General Rule. All words and phrases shall be construed and understood according to the common use and understanding language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.

B. Gender – Singular and Plural. Unless otherwise indicated from the context of the ordinance, all words used in the singular shall include the plural and all words used in the masculine gender shall extend to and apply to the feminine gender.

C. Person. The term “person” includes all individuals both male and female, any governmental agency, corporation, partnership, association, company and every other form of organization whether formed voluntarily or involuntarily.

D. Tenses. The use of any verb in the present tense shall include the future and past tense when applicable.

E. Highway – Road. The terms “highway” and “road” include public bridges, and may be equivalent to the words “county way,” “county road,” “common road,” and “state road.”

F. Street. The term “street” includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.

G. Business. The term “business” includes any trade, profession, calling, activity, operation or enterprise for which a license is required by any ordinance of this municipality.

H. License. The term “license” includes any certificate or license issued by this municipality.

I. Property. The term “property” includes both real and personal property.

J. Owner. The term “owner” applied to a building or land shall include any part owner, joint owner, tenant in common, and joint tenant or lessee of a whole or part of such building or land.

K. Tenant – Occupant. The term “tenant” or “occupant” applied to a building or land shall apply to any person who occupies all or any part of such building or land either alone or with others.

L. Reasonable Time. In all cases where any ordinance required that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

M. Time – How Computed. The time within which an act is to be done as provided in any ordinance or in any resolution or order of this municipality, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday. When time is expressed in hours, Sunday and all legal holidays shall be excluded.

N. Week. The word “week” shall be construed to mean any seven-day period.

O. Location. Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of this municipality.

P. Chief of Police. The “Chief of Police” shall be the person so designated by the City Council and shall be the head of the Police Department.

Q. Municipality. The word “municipality” as used throughout this code means the City of Delta, Utah.

R. Governing Body. The word “governing body” as used throughout this code means the City Council of this municipality.

S. Offense. “Offense” means any act, action or conduct prohibited by this code or the failure to perform any acts required in this code.

T. Officer or Officials. The terms “officer” or “official” as used in this code means any elected or appointed person employed by the municipality unless the context clearly indicates otherwise.

U. City Recorder. The term “City Recorder” means the individual appointed to act as the City Recorder of the City of Delta, Utah.

1-007. CAPTIONS.

The captions in this code immediately preceding each section are intended as mere captions to indicate the content of the section and shall not be deemed or taken to be part of the sections.

1-008. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or without effect by any final judgment or decree of a court of competent jurisdiction, such judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

1-009. NUMBERING OF ORDINANCES.

A. The City Recorder, in so far as possible, assigns all ordinances of a general nature adopted after these Revised Ordinances a number which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.

B. The City Recorder shall keep all ordinances of a local, private or temporary nature, including franchises, grants, dedication, bond issues and tax levies in a separate book of "Special Ordinances" properly indexed and organized according to date adopted. The first number of such an ordinance shall be the last two digits of the year the ordinance is adopted, followed by a dash which is followed by a number which shall be a sequential ascending number indicating the order in which such special ordinance was adopted.

C. Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

1-010. STATUTES OR CODES INCLUDED AND EXCLUDED.

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this code unless the provisions of this code specifically include, incorporate or make the citation or statute part of this code by reference or incorporation and any such reference or citation not specifically included or incorporated may be changed, amended or deleted without publication on an order of the governing body.

1-100. CONSTRUCTION OF PENALTIES.

1-110. INTRODUCTORY PROVISION TO CONSTRUCTION OF CRIMES UNDER THIS CODE.

1-111. APPLICATION OF CODE – OFFENSE PRIOR TO EFFECTIVE DATE.

A. The provisions of this code shall govern the construction of, the punishment for and the defense against any offense defined in this code, or, except where otherwise specifically provided or the context otherwise requires, any offense defined outside this code; provided such offense was committed after the effective date of this code.

B. Any offense committed prior to the effective date of this code shall be governed by the ordinances of this municipality existing at the time of commission thereof, except that a defense or limitation on punishment available under this code shall be available to any defendant tried or retried after the effective date. An offense under this code shall be deemed to have been committed prior to the effective date of this code if any of the elements of the offense occurred prior to the effective date.

1-112. PURPOSES AND PRINCIPLES OF CONSTRUCTION.

The provisions of this code shall be construed in accordance with these general purposes to:

- A. Forbid and prevent the commission of offenses.
- B. Define adequately the conduct and mental state which constitutes each offense and safeguard conduct which is without fault from condemnation as criminal.
- C. Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.
- D. Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

1-113. CRIMES ABOLISHED.

No conduct is a crime or an offense unless made so by this code, or other ordinances or other applicable statute.

1-114. STRICT CONSTRUCTION RULE NOT APPLICABLE.

The rule that a penal ordinance is to be strictly construed shall not apply to this code, or any of its provisions, or other ordinances of this municipality. All provisions of this code and offenses defined by it shall be construed according to the fair import of their terms to promote justice and to affect the objects of the law and general purposes of section 1-112.

1-115. PROCEDURE – GOVERNED BY STATE AND CONSTITUTIONAL PROVISIONS
LIABILITY FOR CIVIL DAMAGES NOT AFFECTED.

- A. Except as otherwise provided, the procedure governing the accusation, prosecution, conviction and punishment of offenders and offenses is not regulated by this code, but shall be in conformity with the laws of the State of Utah and the Constitution of the United States of America.
- B. This code does not bar, suspend or otherwise affect any rights to or liability for damages, penalty, forfeiture, impeachment or other remedy authorized by law to be

covered or enforced in a civil action, administrative proceeding, or otherwise, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this code.

1-120. JURISDICTION AND VENUE.

1-121. JURISDICTION OF OFFENSES.

A. A person is subject to prosecution in this municipality for an offense which he commits, while either within or outside the municipality, by his own conduct or that of another for which he is legally accountable, if:

1. The offense is committed either wholly or partly within the municipality; or
2. The conduct outside this municipality constitutes an attempt within this municipality; or
3. The conduct outside this municipality constitutes a conspiracy to commit an offense within this municipality and an act in furtherance of the conspiracy occurs in this municipality; or
4. The conduct within the municipality constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under this code and such other jurisdiction.

B. An offense is committed partly within this municipality if either the conduct which is an element of the offense, or the result which is such an element, occurs within this municipality.

C. An offense which is based on an omission to perform a duty imposed by this code is committed within this municipality regardless of the location of the offender at the time of the omission.

1-130. LIMITATION OF ACTIONS.

1-131. EMBEZZLEMENT OF PUBLIC MONEYS – FALSIFICATION OF PUBLIC RECORDS.

A prosecution for embezzlement of public moneys or the falsification of public records may be commenced at any time.

1-132. MISDEMEANOR – ANY INFRACTION – COMMENCEMENT OF PROSECUTION.

A. Except as otherwise provided in this part, prosecutions for other offenses are subject to the following periods of limitation:

1. A prosecution for a misdemeanor must be commenced within two years after it is committed;
 2. A prosecution for any infraction must be commenced within one year after it is committed;
- B. The prosecution is commenced on the filing of a citation or information.

1-133. FRAUD OR BREACH OF FIDUCIARY OBLIGATIONS – MISCONDUCT BY PUBLIC OFFICER OR EMPLOYEE.

If the period prescribed in Section 1-132.A. has expired, a prosecution may nevertheless be commenced for:

- A. Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years; and
- B. Any offense based on misconduct in office by a public officer or employee at any time during the term of the defendant's public office or the period of his public employment or within two years thereafter, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years.

1-134. DEFENDANT OUT OF STATE.

The period of limitation does not run against any defendant during any period of time he is out of the State following the commission of an offense.

1-135. LESSER INCLUDED OFFENSE FOR WHICH PERIOD OF LIMITATIONS HAS RUN.

Whenever a defendant is charged with an offense for which the period of limitations has not run and the defendant should be found guilty of a lesser offense for which the period of limitations has run, the finding of the lesser and included offense against which the statute of limitations has run shall not be a bar to punishment for the lesser offense.

1-140. MULTIPLE PROSECUTION AND DOUBLE JEOPARDY – CRIMINAL JOINDER.

1-141. "SINGLE CRIMINAL EPISODE" DEFINED.

In this code unless the context requires a different definition, "single criminal episode" means all conduct which is closely related in time and is incident to an attempt or an accomplishment of a single criminal objective. Nothing in this part shall be construed to limit or modify the joinder of offenses and defendants in criminal proceedings.

1-143. JOINDER OF OFFENSES AND DEFENDANTS.

A. Two or more offenses under this code or the ordinances of this municipality may be charged in the same citation or complaint in a separate count for each offense if the offenses charged are of the same or similar character or are based on the same act or transgression or on two or more acts or transgressions connected together or constituting parts of a common scheme or plan.

B. Two or more defendants may be charged in the same citation or complaint if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

1-150. BURDEN OF PROOF.

1-151. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-1-501 through § 76- 1-504 (1953) as amended, are hereby adopted and incorporated herein by reference.

1-160. DEFINITIONS.

1-161. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-1-601 (1953), as amended, are hereby adopted and incorporated herein by reference.

1-200. PRINCIPLES OF CRIMINAL RESPONSIBILITY.

1-210. CULPABILITY GENERALLY.

1-211. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-2-101 through § 76- 2-104 (1953), as amended, are hereby adopted and incorporated herein by reference.

1-220. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER.

1-221. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-2-201 through § 76- 2-205 (1953) as amended, are hereby adopted as part of this code and incorporated herein by reference.

1-230. DEFENSES TO CRIMINAL RESPONSIBILITY.

1-231. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-2-301 through § 76- 2-308 (1953) as amended, hereby are adopted as part of the code and incorporated herein by reference.

1-240. JUSTIFICATION EXCLUDING CRIMINAL RESPONSIBILITY.

1-241. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-2-401 through § 76- 2-406 (1953) as amended, hereby are adopted as part of the code and incorporated herein by reference.

1-300. PUNISHMENTS.

1-310. CLASSIFICATION OF OFFENSES.

1-311. SENTENCING IN ACCORDANCE WITH CHAPTER.

A. A person adjudged guilty of an offense under this code or the ordinances of this municipality shall be sentenced in accordance with the provisions of this chapter.

B. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

1-312. DESIGNATION OF OFFENSES.

Offenses are designated as misdemeanors or infractions.

1-313. MISDEMEANORS CLASSIFIED.

A. Misdemeanors are classified into two categories:

1. Class "B" misdemeanors.
2. Class "C" misdemeanors.

B. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or in an ordinance of this municipality when no other specification as to punishment or category is made, is a Class "B" misdemeanor.

1-314. INFRACTIONS.

A. Infractions are not classified.

B. Any offense which is made an infraction in this code or other ordinances of this municipality or which is expressly designated an infraction and any offense designated by this code or other ordinances of this municipality which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

1-315. CONTINUING VIOLATION.

In all instances where the violation of these ordinances or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

1-320. SENTENCING.

1-321. SENTENCES OR COMBINATION OF SENTENCES ALLOWED – CIVIL PENALTIES.
Within the limits prescribed by this code, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or a combination of such sentences:

- A. To pay a fine; or
- B. Reserved.
- C. To probation; or
- D. To imprisonment.

1-322. MISDEMEANOR CONVICTION – TERM OF IMPRISONMENT.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- A. In the case of a Class "B" misdemeanor, for a term not exceeding six (6) months;
- B. In the case of a Class "C" misdemeanor, for a term not exceeding ninety days.

1-323. INFRACTION CONVICTION – FINE, FORFEITURE AND DISQUALIFICATION.

- A. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture or both.
- B. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class "C" misdemeanor.

1-330. FINES AND SPECIAL SANCTIONS.

1-331. FINES OF PERSONS.

A person who has been convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

- A. One thousand dollars (\$1,000.00) when the conviction is of a Class "B" misdemeanor;
- B. Five hundred dollars (\$500.00) when the conviction is of a Class "C" misdemeanor or infraction; and

1-332. FINES OF CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS OR GOVERNMENTAL INSTRUMENTALITIES.

The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code or the ordinances of the municipality or for any offense defined outside of this Code of Ordinances or which the municipality has jurisdiction, for which no special corporate fine is specified, shall be sentenced to pay an amount, fixed by the court, not to exceed:

A. Five thousand dollars (\$5,000.00) when the conviction is for a Class "B" misdemeanor; and

B. One thousand dollars (\$1,000.00) when the conviction is for a Class "C" misdemeanor or for an infraction.

1-340. LIMITATIONS AND SPECIAL PROVISIONS ON SENTENCES.

1-341. INCORPORATION OF STATE CODE.

The provisions of Utah Code Annotated § 76-3-401 through § 76- 3-405 (1953), as amended, are hereby adopted and incorporated herein by reference, as such limitations and special provisions on sentences apply to misdemeanors.

1-400. ADMINISTRATIVE REMEDIES.

1-410. HEARINGS.

1-411. REQUEST.

Unless otherwise specifically provided in any ordinance of the municipality or any code adopted by reference, a hearing before the governing body may be requested by any person:

A. Who is denied or refused a permit or license by any officer, agent or employee of this municipality.

B. Whose permit or license is revoked, restricted, qualified or limited from that for which it was first issued.

1-412. FORM OF REQUEST.

The request for hearing must be made in writing to the Mayor or City Recorder and made within 30 days following the date notice denying, refusing, revoking, qualifying or restricting the license or permit is mailed by the municipality to the applicant or license holder at his address as it appears on the application or license.

1-413. PROCEDURE.

A. Following receipt of a request for hearing, the governing body shall set the time and place for hearing within 30 days of the request for hearing and shall inform the person requesting a hearing of the time and place the hearing is to be held.

B. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of his contention.

C. The governing body shall, within ten days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the governing body.

1-414. NOT ADDITIONAL REMEDY.

This part shall not be construed so as to afford any aggrieved party more than one hearing before the City Council nor shall the hearing provided in this part apply to any criminal complaint or proceeding.